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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/734,005  | 12/10/2003  | William G. Reeves    | 17,988              | 9405             |
| 23556 7590 04/04/2008<br>KIMBERLY-CLARK WORLDWIDE, INC.<br>Catherine E. Wolf<br>401 NORTH LAKE STREET<br>NEENAH, WI 54956 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| TSOY, ELENA   |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 1792  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/734,005

**Applicant(s)**

REEVES ET AL.

**Examiner**

Elena Tsoy

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-11, 13 and 19-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

Amendment filed on January 18, 2008 has been entered. Claims 1-22 are pending in the application. Claims 1-11, 13, 19-22 are withdrawn from consideration as directed to a non-elected invention and/or species.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12, 14, and 16-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tsubakimoto et al (US 4734478).

Tsubakimoto et al is applied here for the same reasons as set forth in paragraph 4 of the Office Action mailed on 10/18/2007. Tsubakimoto et al teaches that mixing of the water-absorbing resin powder with the polyhydric alcohol and the hydrophilic organic solvent with or without water is effected by spraying a mixture of the polyhydric alcohol, the hydrophilic organic solvent and water to the water-absorbing resin powder in a fluidizing-type mixer (See

column 4, lines 50-62), the mixture is then heated in a fluidized bed dryer, at a temperature and time sufficient for the crosslinking reaction to occur (See column 5, lines 1-18) so that the polyhydric alcohol is reacted with the molecular chains on the surface of water-absorbing resin powder thereby forming a layer of the polyhydric alcohol (claimed coating material) on the surface of the resin powder. Clearly, to obtain a layer of polyhydric alcohol, the particles and coating material should be *maintained* in a stream, as required by Amendment.

4. Claims 12 and 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chambers et al (US 5597873).

Chambers et al is applied here for the same reasons as set forth in paragraph 5 of the Office Action mailed on 10/18/2007. Chambers et al teaches that after spraying of the surface crosslinker on the base polymer particle (See column 9, lines 41-42) the crosslinking reaction is effected and the polymer particle dried (See column 10, lines 1-3). The crosslinking reaction may be effected at a temperature from about 70<sup>o</sup>C to about 150<sup>o</sup>C (See column 10, lines 3-5). Clearly, to obtain a coating of a crosslinker, the particles and coating material should be *maintained* in a stream, as required by Amendment.

5. Claims 12 and 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Eckert et al (US 6239230).

Eckert et al is applied here for the same reasons as set forth in paragraph 6 of the Office Action mailed on 10/18/2007. Eckert et al teaches treating SAP particles with a crosslinker and heating the treated SAP particles for sufficient time for the crosslinking reaction to occur (See column 16, lines 17-19). Clearly, to obtain a coating of a crosslinker, the particles and coating material should be *maintained* in a stream, as required by Amendment.

6. Claims 12, 14, and 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dutkiewicz et al (US 6329565).

Dutkiewicz et al is applied here for the same reasons as set forth in paragraph 7 of the Office Action mailed on 10/18/2007. Dutkiewicz et al teaches that Kymene spray nozzles were positioned to obtain a **uniform coating** of polyacrylic acid and Kymene on the cellulose fluff /superabsorbent particulates (See column 25, lines 47-65). Clearly, to obtain a **uniform coating**, the particles and coating material should be *maintained* in a stream, as required by Amendment.

7. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chambers et al/Eckert et al in view of Reeves et al (US 6376011) for the reasons of record set forth in paragraph 8 of the Office Action mailed on 10/18/2007.

8. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubakimoto et al/Dutkiewicz et al/ in view of Reeves et al for the reasons of record set forth in paragraph 9 of the Office Action mailed on 10/18/2007.

9. Claims 12, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubakimoto et al/Chambers et al/Eckert et al/Dutkiewicz et al/ in view of Reeves et al for the reasons of record set forth in paragraph 10 of the Office Action mailed on 10/18/2007.

#### ***Response to Arguments***

10. Applicant's arguments filed January 18, 2008 have been fully considered but they are not persuasive.

#### ***Examiner Note***

The slash mark “/” in “Chambers et al/Eckert et al in view of Reeves et al”, “Tsubakimoto et al/Dutkiewicz et al/ in view of Reeves et al” and in “Tsubakimoto et al/Chambers et al/Eckert

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et al/Dutkiewicz et al/ in view of Reeves et al” means “**each of**” primary reference in view of Reeves et al. For example: “Chambers et al/Eckert et al in view of Reeves et al” means “Chambers et al in view of Reeves et al **or** Eckert et al in view of Reeves et al”.

(A) Applicants assert that the Examiner is identifying the polyhydric alcohol and/or the hydrophilic organic solvent with water as the “coating material” of Applicants’ claims incorrectly because the specification at page 3, lines 6-13 describes the term “particle” as a material that is generally in the form of discrete units. The particles can include granules, pulverulents, powders or spheres. Thus, the liquids cited by the Examiner are not “particles” as that term is used in the present application and the Examiner has not made a prima facie case of anticipation or obviousness.

10. The Examiner respectfully disagrees with this argument. The liquid **droplets** of the cited prior art are “material that is generally in the form of *discrete units*” as required by Applicants’ definition. The phrase “The particles *can include* granules, pulverulents, powders or spheres” **does not exclude** other material that is generally in the form of discrete units such as liquid *droplets*. Moreover, the features upon which applicant relies (i.e., particles being **solid**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(B) Applicants traverse the rejection over Dutkiewicz et al because it appears that the Examiner is equating the polyacrylic acid solution of Dutkiewicz with the “association agent” of Applicants’ claims. However, polyacrylic acid solution is not an association agent as that term is used in the present application. Specifically, Applicants’ specification states at page 7, lines 16-26 that polyacrylic acid solution is not an association agent as that term is used in the present application. Specifically, Applicants’ specification states at page 7, lines 16-26 that “The selection of a particular association agent can be made by one skilled in the art and will typically depend upon the chemical composition of the materials to be maintained in association with one another. Desirably, the association agent is suitable for use in applications involving human contact. Several types of association agent are capable of being employed in the present invention. Illustrative association agents suitable for use in various versions of the present invention ‘include, for example: water; volatile organic solvents such as alcohols; aqueous solutions of film-forming materials such as dried milk, lactose, soluble soy protein and casein; synthetic adhesives such as polyvinyl alcohol and mixtures thereof.’”.

The Examiner respectfully disagrees with this argument. First of all, the Examiner did not equate the polyacrylic acid *solution* of Dutkiewicz with the "association agent" of Applicants' claims. Second, polyacrylic acid *solution* is based either on water or volatile organic solvent, which are even by Applicants definition are "association agent" of Applicants' claims. Third, the phrase "*Desirably*, the association agent is suitable for use in applications involving human contact. *Illustrative* association agents" does not exclude other association agent materials, including the polyacrylic acid *solution* of Dutkiewicz.

(C) Applicants assert that the Examiner has not made a prima facie case of anticipation or obviousness by showing that Dutkiewicz teaches or suggests that the superabsorbent material and cellulose are maintained in the gas stream until the superabsorbent material is covered with cellulose fluff or any other coating material. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

The Examiner respectfully disagrees with this argument. As was discussed in the previous Office Action, Dutkiewicz et al teaches that Kymene spray nozzles were positioned to obtain a uniform coating of polyacrylic acid and Kymene on the cellulose fluff/superabsorbent particulates (See column 25, lines 47-65). Clearly, to obtain a uniform coating, the particles and coating material should be *maintained* in a stream, as required by Amendment.

(D) Applicants request clarification as to rejection of claims 16-17, over a combination of Chambers, Eckert, and Reeves. Based on the citations and language, it appears that the Examiner is actually referencing Tsubakimoto instead of Reeves. Thus, Applicants' response is based on that understanding. Applicants respectfully request clarification if this assumption is incorrect.

The Examiner agrees with Applicants. As to claim 17, Reeves has been cited instead of Tsubakimoto. However, claim 17 was rejected over Tsubakimoto alone.

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(E) The Examiner has not explained how or why one skilled in the art would have combined these five different references of Tsubakimoto et al, Chambers et al, Eckert et al, Dutkiewicz et al in view of Reeves et al

The Examiner apologizes for misunderstanding. However, the slash mark “/” has been used by the Examiner before, and has never been interpreted by Applicants as a mark for “and”. Since it was clear from the context that *each of* Tsubakimoto et al, Chambers et al, Eckert et al and Dutkiewicz et al was missing only the limitation of the use of a heated flowing gas provided by Reeves et al, the Examiner did not provide the explanation of the mark “/”.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is 571-272-1429. The examiner can normally be reached on Monday-Friday, 9:00AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy, Ph.D.  
Primary Examiner  
Art Unit 1792

April 5, 2008

/Elena Tsoy /

Primary Examiner, Art Unit 1792